



DEC 13 2012

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

The U.S. Department of Labor, Employment and Training Administration (ETA) acknowledges receipt of New York's State Plan for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including W-P Agricultural Outreach Plan, and plans for coordination with Trade Adjustment Assistance (TAA) on September 17, 2012, and also acknowledges receipt of New York's subsequent withdrawal of its State Plan and waivers on December 13, 2012. In its request for withdrawal of the State Plan and waivers, New York also requested an extension of its existing State Plan and waivers to allow the State adequate time to prepare a new five-year plan.

Extension of State Plan

New York's existing State Plan will expire on December 31, 2012. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is temporarily extending the approval of New York's State Plan for WIA Title I and the W-P Act, as well as the W-P Agricultural Outreach Plan, through June 30, 2013. New York must submit a full State Plan to ETA for Program Years (PYs) 2013-2016 no later than April 15, 2013, in accordance with guidance provided in Training and Employment Guidance Letter (TEGL) No. 21-11.

The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2012, through June 30, 2013.

Performance Levels

Each year, the Regional Administrator negotiates WIA and W-P performance goals with each state. As required by TEGL Nos. 21-11 and 38-11, dated June 18, 2012, negotiations must be completed by December 31, 2012, for PY 2012. Once the final goals are established, ETA will incorporate New York's final performance goals for PY 2012 into the Regional and National Office copies of the State Plan. Please include these final PY 2012 goals in the State's official copy of the State Plan.

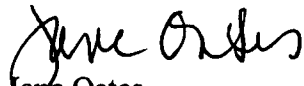
Waivers

As part of the State's request to extend its WIA/W-P State Plan, the State requested a temporary extension of its previously approved waivers of statutory and regulatory requirements under WIA for PY 2012. In a letter dated June 28, 2012 (copy enclosed), ETA provided the disposition of the State's waivers. This letter extends approvals for those waivers under the same terms and conditions through June 30, 2013. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the W-P Act.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 29-11, the State should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

ETA's Boston Regional Office will contact the State to provide technical assistance as it develops its State Plan. If you have any questions related to the issues discussed above, please contact Mr. Timothy Theberge, the Federal Project Officer for New York, at (617) 788-0139 or Theberge.Timothy@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosure

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office
Timothy Theberge, Federal Project Officer for New York

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



JUN 28 2012

The Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, New York 12224

Dear Governor Cuomo:

This letter provides approval of an extension of New York's current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan for a portion of Program Year (PY) 2012. This letter also provides approval of extensions for New York's current waivers. Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2012. In accordance with TEGL No. 21-11 and your extension request, the State must submit a full five-year WIA/W-P State Plan and annual W-P Agricultural Outreach Plan by September 15, 2012. As articulated in a letter dated June 15, 2012, from the Employment and Training Administration's (ETA) Boston Regional Office, the State must have in place a State Workforce Investment Board (SWIB), and include in its full five-year State Plan a description of the SWIB membership and its role in developing the State Plan.

Extension of State Plan

New York's existing State Plan will expire on June 30, 2012. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is temporarily extending the approval of New York's State Plan for WIA Title I and the Wagner-Peyser Act into PY 2012, for the period July 1, 2012 through December 31, 2012. The State already received its formula allotment for the WIA Youth program for PY 2012. The State is eligible to receive WIA formula allotments for the Adult and Dislocated Worker programs under the PY 2012 Annual Funding Agreement. The W-P Annual Funding Agreement on PY 2012/Fiscal Year 2013 will provide the W-P Act initial base allocation of PY 2012 funds.

Performance Levels

New York requested to temporarily extend its existing PY 2011 WIA and W-P performance goals for a portion of PY 2012. ETA has incorporated these performance goals, identified as PY 2012 performance goals, into the Regional and National Office copies of the State Plan. Please include these PY 2012 goals in the State's official copy of the State Plan. As required by TEGL 21-11, the state must renegotiate its new PY 2012 goals upon submission of its full State Plan.

Waivers

As part of the State's extension of the WIA/W-P Act State Plan, and as described in TEGL No. 21-11, the State requested temporary extensions of New York's PY 2011 waivers of statutory

and regulatory requirements under WIA for PY 2012. The disposition of the State's waiver extensions is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State was previously granted a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted an extension of this waiver through December 31, 2012.

This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. Workforce Investment Act Standardized Record Data system (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State was previously granted a waiver of the requirement for competitive procurement of service providers for two of the youth program elements. The State is granted an extension of this waiver through December 31, 2012. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide the youth program elements of follow-up services and work experience. In utilizing this waiver for these elements, the State and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State was previously granted a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The State is granted an extension of this waiver through December 31, 2012. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25 percent match for employers with 51-250 employees. For employers with more than 250 employees, the current



New York State Department of Labor
Andrew M. Cuomo, Governor
Peter M. Rivera, Commissioner

December 13, 2012

Ms. Heather Fleck
Division of WIA Adult Services and Workforce System
Employment and Training Administration
U. S. Department of Labor
200 Constitution Ave., NW, Room S-4209
Washington, DC 20210

Dear Ms. Fleck:

New York State submitted a Strategic State Plan for Title I of the Workforce Investment Act (WIA) and Wagner-Peyser on September 17, 2012. We have been advised through our Regional Office that there are outstanding concerns regarding our State Board composition prohibiting them from recommending approval of our plan.

As such, we would like to withdraw our recent State Plan submittal and request an extension of our PY 2011 State Plan and PY 2011 waivers through June 30, 2013. This extension will provide us with additional time to fill existing vacancies and address the concern about representation for older workers that has been raised. We will continue to work actively with our Regional Office to address the board composition issues that have been identified.

Although we are requesting an extension of our PY 2011 plan and waivers, we would like to use the PY 2012 performance measures that have been negotiated with USDOL. We have already shared the new goals with local areas, and we are commencing the local performance measures negotiation process at this time.

Thank you for your consideration of this request to extend our existing State Plan and waivers through June 30, 2013.

Sincerely,

A handwritten signature in dark ink, appearing to read "Peter M. Rivera", is written over a light blue horizontal line.

Peter M. Rivera

statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide customized training to individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State was previously granted a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted an extension of this waiver through December 31, 2012. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State was previously granted a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted an extension of this waiver through December 31, 2012. Under this waiver, the State is permitted to allow local areas to use up to 10 percent of local Dislocated Worker funds and up to 10 percent of local Adult funds for incumbent worker training only as part of a layoff aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 134(d), and the State is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State was previously granted a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted an extension of this waiver through December 31, 2012. Under the waiver, the following

reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide on-the-job training to individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals..

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State was previously granted a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted an extension of this waiver through December 31, 2012. Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRI), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

The State was previously granted a waiver of the requirements to reduce the data collection burden for employers participating in WIA-funded incumbent worker training programs. The waiver permits the State to discontinue the collection of the following Workforce Investment Act Standardized Record Data (WIASRD) elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). The State is granted an extension of this waiver through December 31, 2012.

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The State is granted an extension of this waiver through December 31, 2012.

Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

Waiver of performance measures for youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs.

The State has requested an extension of the waiver of the common performance measures for youth who participate in subsidized summer youth employment activities that utilize Temporary Assistance to Needy Families (TANF) funds and are co-enrolled in WIA-funded youth programs. The State is granted an extension of this waiver which allows the State to use the work readiness indicator as the only indicator of performance for youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities. The waiver is effective from May 1, 2012 through September 30, 2012. This waiver applies only to WIA Youth performance requirements; the State must comply with any reporting requirements established through TANF. This waiver does not apply to WIA youth participating in program elements beyond summer employment and supportive services.

Waiver to provide program design flexibility in serving youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs.

The State has requested an extension of the waiver of certain provisions under WIA Sec. 129(c) and 20 CFR 664 to allow Local Workforce Investment Area (LWIA) staff increased flexibility in program design. Through this waiver, the State will be able to provide program design flexibility in serving youth who participate in subsidized summer youth employment activities that utilize TANF funds and are co-enrolled in WIA-funded youth programs.

The State is granted an extension of this waiver. Specifically, the State is granted a waiver of statutory and regulatory provisions as follows:

- Waiver of the requirement at WIA section 129(c)(2)(I) and 20 CFR 664.450(b) to provide a minimum of 12 months of follow-up services, to allow local areas to provide follow-up services with WIA Youth funds as deemed appropriate for such youth participants.
- Waiver of the requirement at WIA section 129(c)(1)(A) and 20 CFR 664.405(a)(1) to provide an objective assessment and the requirement at WIA section 129(c)(1)(B) and 20 CFR 664.405(a)(2) to develop an individual service strategy (ISS), to allow local areas to provide an assessment or ISS as deemed appropriate for such youth participants.

The approved waiver is effective from May 1, 2012 through September 30, 2012, and only applies to youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities. Youth transitioning to year-round WIA Youth services after September 30, 2012 must have in place an objective assessment and individual service strategy as required by WIA. The State may not apply this waiver to summer youth employment activities funded solely with WIA formula funds.

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) to exempt the state from the requirement to conduct evaluations.

The State was previously granted a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. The State is granted an extension of this waiver through December 31, 2012.

Waiver of 20 CFR 665.200(b)(3) to exempt the state from the requirement to disseminate training provider performance and cost information.

The State was previously granted a waiver of the requirement to disseminate training provider performance and cost information. The State is granted an extension of this waiver through December 31, 2012.


Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State was previously granted a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State is granted an extension of this waiver through December 31, 2012.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 29-11, the State should address the impact that these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to receiving your full State Plan for PY 2012 and working together as you implement your State workforce strategies. If you have any questions related to the issues discussed above, please contact Lee Reynolds, the Federal Project Officer for New York, at (617) 788-0130 or Reynolds.Tricia@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

Enclosure

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office
Tricia Reynolds, Federal Project Officer for New York



New York State Department of Labor
Andrew M. Cuomo, Governor
Colleen C. Gardner, Commissioner

April 11, 2012

Ms. Heather Fleck
Division of WIA Adult Services and Workforce System
Employment and Training Administration
U.S. Department of Labor
200 Constitution Ave., NW, Room S-4209
Washington, DC 20210

Dear Ms. Fleck:

New York State's Strategic State Plan for Title I of the Workforce Investment Act (WIA) and Wagner-Peyser Act will expire on June 30, 2012. In accordance with Training and Employment Guidance Letter (TEGL) No. 21-11, the New York State Department of Labor (NYSDOL), the designated State agency responsible for overseeing implementation of WIA and Wagner-Peyser, is requesting that the U.S. Department of Labor grant a temporary extension of New York State's current WIA/Wagner-Peyser Act State Plan and negotiated performance targets into Program Year (PY) 2012.

New York State requires an extension to finalize strategies that are currently under discussion to bring the State's strategic workforce planning into alignment with Governor Andrew M. Cuomo's comprehensive vision for economic growth. In 2011, the Governor established ten Regional Economic Development Councils (REDCs) comprised of community representatives including major industries, small business, higher education, community organizations, local workforce investment boards, and labor. Regional boundaries are based on existing Empire State Development (the State's economic development agency) and Department of Labor regional boundaries. The REDCs have developed and adopted five-year strategic plans that outline specific priority projects that are significant, regionally-supported and capable of stimulating economic growth. Regional workforce development needs are being identified and under review. To facilitate inter-regional cooperation, Lieutenant Governor Robert Duffy convenes a Chairman's Committee comprised of the Regional Co-Chairs from each Council, statewide stakeholders, and State agency and authority heads at least quarterly.

In addition, the Governor established a Spending and Government Efficiency (SAGE) Commission to modernize and right-size New York State's government to make it more efficient, effective and accountable. In December 2011, the SAGE Commission made four key recommendations to improve the effectiveness of the State's workforce development services:

- Establish system-wide reporting and standardized performance metrics within the State's proposed Performance Management system;
- Revitalize and reorganize the State Workforce Investment Board (SWIB) to serve as the coordinating body for developing a statewide Workforce Development strategy;

- Increase the role for economic development in Workforce Development efforts; and
- Align activities of local WIBs with the statewide Regional Councils.

The Department anticipates that the SWIB will be established as a subcommittee of the Regional Economic Development Council Chairman's Committee formally integrating economic and workforce development strategic planning. We believe these State-level changes are very much in line with several of the Employment and Training Administration's current workforce system policy emphases outlined in TEGL 21-11: alignment with state and regional economic development; cross-program alignment; and dual customer focus.

In addition, to requiring extra time to align the State's workforce and economic development planning processes, we are seeking an extension to accommodate an anticipated administrative change for NYSDOL. On March 24, Governor Cuomo announced the nomination of Assemblyman Peter M. Rivera to serve as Commissioner of Labor. Assemblyman Rivera's nomination is subject to confirmation by the New York State Senate, and he is expected to assume the Commissioner's position effective July 1, 2012. I will be assisting with the transition until then.

New York State is also requesting an extension of existing PY 2011 waivers in PY 2012 as permitted in TEGL No. 21-11. For PY 2011, New York State was granted the following waivers:

- Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures
- Waiver of WIA Section 123 that requires providers of Youth program elements to be selected on a competitive basis (follow-up services and work experience only)
- Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C)
- Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers
- Waiver of Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training
- Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training
- Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training
- Waiver of 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers
- Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth
- Waiver of performance measures for youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs
- Waiver to provide program design flexibility in serving youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs

New York State has reviewed these waivers and has concluded that the waivers continue to support the strategies outlined in our existing State Plan and match the needs of the State's workforce system. Therefore, New York is requesting that these waivers be extended in conjunction with the PY 2011 State Plan until the PY 2012 Plan is submitted and approved which we anticipate will be no later than September 15, 2012.

Thank you for your consideration of this request to extend our existing State Plan and waivers into Program Year 2012.

Sincerely,


Colleen C. Gardner
Commissioner